

SENATE BILL NO. 320

INTRODUCED BY BALES, PETERSON, BARRETT, RIPLEY, STEINBEISSER, STORY, WITT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE REGULATION OF ~~CONFINED~~
CONCENTRATED ANIMAL FEEDING OPERATIONS UNDER GENERAL PERMIT AUTHORIZATIONS;
DEFINING THE TERMS "ANIMAL FEEDING OPERATION", "~~CONFINED~~ CONCENTRATED ANIMAL FEEDING
OPERATION", "LARGE ~~CONFINED~~ CONCENTRATED ANIMAL FEEDING OPERATION" AND "MEDIUM
~~CONFINED~~ CONCENTRATED ANIMAL FEEDING OPERATION"; PROVIDING FEES FOR PERMITTING
~~CONFINED~~ CONCENTRATED ANIMAL FEEDING OPERATIONS; PROVIDING FOR THE LEVEL OF
ENVIRONMENTAL REVIEW OF ~~CONFINED~~ CONCENTRATED ANIMAL FEEDING OPERATIONS; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 3], the following
definitions apply:

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days
or more in any 12-month period; and

(b) crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing
season over any portion of the lot or facility.

(2) "~~Confined~~ CONCENTRATED animal feeding operation" means an animal feeding operation that is
defined as a large ~~confined~~ CONCENTRATED animal feeding operation or as a medium ~~confined~~ CONCENTRATED
animal feeding operation OR THAT IS DESIGNATED AS A CONCENTRATED ANIMAL FEEDING OPERATION IN ACCORDANCE
WITH 40 CFR, PART 122. TWO OR MORE ANIMAL FEEDING OPERATIONS UNDER COMMON OWNERSHIP ARE CONSIDERED
TO BE A SINGLE ANIMAL FEEDING OPERATION FOR THE PURPOSES OF DETERMINING THE NUMBER OF ANIMALS AT AN
OPERATION IF THEY ADJOIN EACH OTHER OR IF THEY USE A COMMON AREA OR SYSTEM FOR THE DISPOSAL OF WASTES.

(3) "Large ~~confined~~ CONCENTRATED animal feeding operation" means an animal feeding operation that
stables or confines at a minimum:

(a) 700 mature dairy cows, whether milked or dry;

- (b) 1,000 veal calves;
- (c) 1,000 cattle other than mature dairy cows or veal calves;
- (d) 2,500 swine each weighing 55 pounds or more;
- (e) 10,000 swine each weighing less than 55 pounds;
- (f) 500 horses;
- (g) 10,000 sheep or lambs;
- (h) 55,000 turkeys;
- (i) 30,000 laying hens or broilers if the animal feeding operation uses a liquid manure-handling system;
- (j) 125,000 chickens, other than laying hens or broilers, if the animal feeding operation uses OTHER THAN a liquid manure-handling system;
- (k) 82,000 laying hens if the animal feeding operation uses other than a liquid manure-handling system;
- (l) 30,000 ducks if the animal feeding operation uses other than a liquid manure-handling system; or
- (m) 5,000 ducks if the animal feeding operation uses a liquid manure-handling system.

(4) "Medium ~~confined~~ CONCENTRATED animal feeding operation" means AN ANIMAL FEEDING OPERATION WITH THE TYPE AND NUMBER OF ANIMALS THAT FALL WITHIN ANY OF THE RANGES LISTED IN SUBSECTION (4)(A) AND THAT HAS BEEN DEFINED OR DESIGNATED AS A CONCENTRATED ANIMAL FEEDING OPERATION. AN ANIMAL FEEDING OPERATION IS DEFINED AS A MEDIUM CONCENTRATED ANIMAL FEEDING OPERATION IF:

(a) ~~an animal feeding operation that~~ THE TYPE AND NUMBER OF ANIMALS THAT IT stables or confines ~~animals~~ that fall FALLS within ANY OF the following ranges:

- (i) 200-699 mature dairy cows, whether milked or dry;
- (ii) 300-999 veal calves;
- (iii) 300-999 cattle other than MATURE dairy cows or veal calves;
- (iv) 750-2,499 swine each weighing 55 pounds or more;
- (v) 3,000-9,999 swine each weighing less than 55 pounds;
- (vi) 150-499 horses;
- (vii) 3,000-9,999 sheep or lambs;
- (viii) 16,500-54,999 turkeys;
- (ix) 9,000-29,999 laying hens or broilers if the animal feeding operation uses a liquid manure-handling system;
- (x) 37,500-124,999 chickens, other than laying hens, if the animal feeding operation uses other than

1 a liquid manure-handling system;

2 (xi) 25,000-81,999 laying hens if the animal feeding operation uses other than a liquid manure-handling
3 system;

4 (xii) 10,000-29,999 ducks if the animal feeding operation uses other than a liquid manure-handling
5 system; OR

6 (xiii) 1,500-4,999 ducks if the animal feeding operation uses a liquid manure-handling system; and

7 (b) ~~an operation that meets~~ either of the following conditions IS MET:

8 (i) pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other
9 similar man-made device; or

10 (ii) pollutants are discharged directly into waters of the state that originate outside of and pass over,
11 across, or through the ~~lot or~~ facility or otherwise come into direct contact with the animals confined in the
12 operation.

13
14 **NEW SECTION. Section 2. Permitting -- ~~confined~~ CONCENTRATED animal feeding operation.** (1)

15 For the purpose of permitting ~~confined~~ CONCENTRATED animal feeding operations, the board shall adopt, by
16 reference, the federal regulations and definitions contained in 40 CFR, ~~part~~ PARTS 122.23 AND 412.

17 (2) Subject to the provisions of subsection (3), ~~confined~~ CONCENTRATED animal feeding operations that
18 meet the requirements of ~~the federal regulations~~ 40 CFR, PART 412, must be authorized by the department under
19 a general permit.

20 (3) If, upon review of an application for a general permit authorization for a ~~confined~~ CONCENTRATED
21 animal feeding operation production area, the department ~~develops~~ DISCOVERS site-specific information that
22 indicates that a general permit authorization is not sufficiently protective of water quality, the department ~~may~~
23 SHALL require an individual permit.

24
25 **NEW SECTION. Section 3. Fees for ~~confined~~ CONCENTRATED animal feeding operation permits --**
26 **environmental review.** (1) (A) The fees for a general permit authorization or an individual permit are ~~\$450~~ \$600
27 for the initial application and ~~\$300~~ \$600 for each renewal.

28 (B) IN ADDITION TO THE FEES PROVIDED FOR IN SUBSECTION (1)(A), THERE IS AN ANNUAL FEE FOR A GENERAL
29 PERMIT AUTHORIZATION OR AN INDIVIDUAL PERMIT. THE FEE IS \$600 AND IS SUBJECT TO THE ANNUAL FEE REDUCTION
30 PROVISIONS IN 75-5-516(2)(B).

(2) The department is required to conduct only the type of environmental assessment that would be conducted for a routine action with limited environmental impact pursuant to Title 75, chapter 1, part 2, as the necessary level of environmental review for ~~confined~~ CONCENTRATED animal feeding operations that qualify for a general permit pursuant to [section 2]. For ~~confined~~ CONCENTRATED animal feeding operations that require an individual permit, the level of environmental review must be an environmental assessment UNLESS THE DEPARTMENT DETERMINES THAT AN ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED PURSUANT TO 75-1-201. A PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT IS NOT REQUIRED FOR PERMITTING CONDUCTED UNDER [SECTION 2].

NEW SECTION. Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [sections 1 through 3].

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to ~~confined~~ CONCENTRATED animal feeding operations that are permitted or reviewed on or after January 1, 2005.

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